

LEGISLATIVE BILL 82

Approved by the Governor May 13, 2005

Introduced by Janssen, 15; Baker, 44

AN ACT relating to personal property; to amend sections 52-604, 60-6,114, 60-6,294, 60-6,297, 60-6,298, 60-2404, and 60-2410, Reissue Revised Statutes of Nebraska, and sections 9-317 and 9-324, Uniform Commercial Code; to change provisions relating to liens, towing, and operation of emergency vehicles; to except emergency vehicles from size and weight restrictions and require a permit for operation of emergency vehicles as prescribed; to change provisions relating to purchase-money security interests; to harmonize provisions; to provide operative dates; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 52-604, Reissue Revised Statutes of Nebraska, is amended to read:

52-604. From the proceeds of such sale the claimant shall satisfy his or her lien, including the reasonable charges of notice, advertisement, and sale. The balance, if any, of such proceeds shall be delivered to the county treasurer of the county in which the sale was made. The treasurer of the county in which the property was sold shall issue his or her receipt therefor. The county treasurer shall make proper entry in the books of his or her office of all money so paid over to him or her, and shall hold the money for a period of five years, and immediately thereafter shall pay the same into the school fund of the proper county, to be appropriated for the support of the schools, unless the owner of the property sold, ~~or~~ his or her legal representatives, or any lien or security interest holder of record, shall within such period of five years after such money shall have been deposited with the treasurer, furnish satisfactory evidence of the ownership of such property or satisfactory evidence of the lien or security interest, in which event he, she, or they shall be entitled to receive from such treasurer the amount so deposited with him or her.

Sec. 2. Section 60-6,114, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,114. (1) ~~The Subject to the conditions stated in the Nebraska Rules of the Road, the driver of an authorized emergency vehicle, when responding to an emergency call, when pursuing an actual or suspected violator of the law, or when responding to but not when returning from a fire alarm, may:~~ exercise the privileges set forth in this section, but subject to the conditions stated in the Nebraska Rules of the Road.

~~(2) The driver of such emergency vehicle may stop~~ (a) Stop, park, or stand, irrespective of the provisions of the rules, and disregard regulations governing direction of movement or turning in specified directions; and ~~-~~

~~(3) The driver of such emergency vehicle, except~~ (b) Except for wreckers towing disabled vehicles, and highway maintenance vehicles and equipment: ~~may also-~~

~~(a)~~ (i) Proceed past a steady red indication, a flashing red indication, or a stop sign but only after slowing down as may be necessary for safe operation; and

~~(b)~~ (ii) Exceed the maximum speed limits so long as he or she does not endanger life, limb, or property.

~~(4) (2) Except for such emergency vehicle when operated as a police vehicle, the exemptions granted in subsection (1) of this section to such emergency vehicle shall apply only when the driver of such vehicle, while in motion, sounds an audible signal by bell, siren, or exhaust whistle as may be reasonably necessary and when such vehicle is equipped with at least one lighted light displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.~~

~~(5) (3) The provisions exemptions granted in subsection (1) of this section shall not relieve the driver of such emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect such driver from the consequences of his or her reckless disregard for the safety of others.~~

(4) Authorized emergency vehicles operated by police and fire departments shall not be subject to the size and weight limitations of sections 60-6,288 to 60-6,290 and 60-6,294.

Sec. 3. Section 60-6,294, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,294. (1) Every vehicle, whether operated singly or in a combination of vehicles, and every combination of vehicles shall comply with subsections (2) and (3) of this section except as provided in sections 60-6,294.01 and 60-6,297. The limitations imposed by this section shall be supplemental to all other provisions imposing limitations upon the size and weight of vehicles.

(2) No wheel of a vehicle or trailer equipped with pneumatic or solid rubber tires shall carry a gross load in excess of ten thousand pounds on any highway nor shall any axle carry a gross load in excess of twenty thousand pounds on any highway. An axle load shall be defined as the total load transmitted to the highway by all wheels the centers of which may be included between two parallel transverse vertical planes forty inches apart extending across the full width of the vehicle.

(3) No group of two or more consecutive axles shall carry a load in pounds in excess of the value given in the following table corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot, except that the maximum load carried on any group of two or more axles shall not exceed eighty thousand pounds on the National System of Interstate and Defense Highways unless the Director-State Engineer pursuant to section 60-6,295 authorizes a greater weight.

Distance in feet between the extremes of any group of two or more consecutive axles	Maximum load in pounds carried on any group of two or more consecutive axles					
	Two Axles	Three Axles	Four Axles	Five Axles	Six Axles	Seven Axles

4	34,000					
5	34,000					
6	34,000					
7	34,000					
8	34,000	42,000				
9	39,000	42,500				
10	40,000	43,500				
11		44,000				
12		45,000	50,000			
13		45,500	50,500			
14		46,500	51,500			
15		47,000	52,000			
16		48,000	52,500	58,000		
17		48,500	53,500	58,500		
18		49,500	54,000	59,000		
19		50,000	54,500	60,000		
20		51,000	55,500	60,500		
21		51,500	56,000	61,000		
22		52,500	56,500	61,500		
23		53,000	57,500	62,500		
24		54,000	58,000	63,000		
25		54,500	58,500	63,500	69,000	
26		55,500	59,500	64,000	69,500	
27		56,000	60,000	65,000	70,000	
28		57,000	60,500	65,500	71,000	
29		57,500	61,500	66,000	71,500	
30		58,500	62,000	66,500	72,000	
31		59,000	62,500	67,500	72,500	
32		60,000	63,500	68,000	73,000	
33			64,000	68,500	74,000	
34			64,500	69,000	74,500	
35			65,500	70,000	75,000	
36			66,000	70,500	75,500	
37			66,500	71,000	76,000	81,500
38			67,500	72,000	77,000	82,000
39			68,000	72,500	77,500	82,500
40			68,500	73,000	78,000	83,500
41			69,500	73,500	78,500	84,000
42			70,000	74,000	79,000	84,500
43			70,500	75,000	80,000	85,000
44			71,500	75,500	80,500	85,500
45			72,000	76,000	81,000	86,000
46			72,500	76,500	81,500	87,000
47			73,500	77,500	82,000	87,500
48			74,000	78,000	83,000	88,000

49	74,500	78,500	83,500	88,500
50	75,500	79,000	84,000	89,000
51	76,000	80,000	84,500	89,500
52	76,500	80,500	85,000	90,500
53	77,500	81,000	86,000	91,000
54	78,000	81,500	86,500	91,500
55	78,500	82,500	87,000	92,000
56	79,500	83,000	87,500	92,500
57	80,000	83,500	88,000	93,000
58		84,000	89,000	94,000
59		85,000	89,500	94,500
60		85,500	90,000	95,000

(4) The distance between axles shall be measured to the nearest foot. When a fraction is exactly one-half foot, the next larger whole number shall be used, except that:

(a) Any group of three axles shall be restricted to a maximum load of thirty-four thousand pounds unless the distance between the extremes of the first and third axles is at least ninety-six inches in fact; and

(b) The maximum gross load on any group of two axles, the distance between the extremes of which is more than eight feet but less than eight feet six inches, shall be thirty-eight thousand pounds.

(5) The limitations of subsections (2) through (4) of this section shall apply as stated to all main, rural, and intercity highways but shall not be construed as inhibiting heavier axle loads in metropolitan areas, except on the National System of Interstate and Defense Highways, if such loads are not prohibited by city ordinance.

(6) The weight limitations of wheel and axle loads as defined in subsections (2) through (4) of this section shall be restricted to the extent deemed necessary by the Department of Roads for a reasonable period when road subgrades or pavements are weak or are materially weakened by climatic conditions.

(7) Two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each when the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six, thirty-seven, or thirty-eight feet except as provided in section 60-6,297. Such vehicles shall be subject to section 60-6,301.

(8) If any vehicle crosses a bridge with a total gross load in excess of the posted capacity of such bridge and as a result of such crossing any damage results to the bridge, the owner of such vehicle shall be responsible for all of such damage.

(9) Vehicles equipped with a greater number of axles than provided in the tables in subsection (3) of this section shall be legal if they do not exceed the maximum load upon any wheel or axle, the maximum load upon any group of two or more consecutive axles, and the total gross weight, or any of such weights as provided in subsections (2) and (3) of this section.

(10) Subsections (1) through (9) of this section shall not apply to a vehicle which has been issued a permit pursuant to section 60-6,299, ~~or to~~ a rubber-tired crane with a fixed load when the requirements of subdivision (2)(i) of section 60-6,288 are met, or an emergency vehicle when the requirements of subdivision (1)(a)(v) of section 60-6,298 are met.

(11) Any two consecutive axles the centers of which are more than forty inches and not more than ninety-six inches apart, measured to the nearest inch between any two adjacent axles in the series, shall be defined as tandem axles, and the gross weight transmitted to the road surface through such series shall not exceed thirty-four thousand pounds. No axle of the series shall exceed the maximum weight permitted under this section for a single axle.

(12) Dummy axles shall be disregarded in determining the lawful weight of a vehicle or vehicle combination for operation on the highway. Dummy axle shall mean an axle attached to a vehicle or vehicle combination in a manner so that it does not articulate or substantially equalize the load and does not carry at least the lesser of eight thousand pounds or eight percent of the gross weight of the vehicle or vehicle combination.

Sec. 4. Section 60-6,297, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,297. The provisions of subdivision (1)(b) of section 60-6,290 and subsections (2) and (3) of section 60-6,294 shall not apply when a disabled combination of vehicles is towed if the combination of vehicles, together with the wrecker or tow truck, does not exceed one hundred ~~thirty~~ fifty feet, inclusive of front and rear bumpers including load. Such exception shall apply only if the disabled combination of vehicles is being towed directly to the nearest place of secure safekeeping. The towing vehicle

shall be connected with the air brakes and brake lights of the towed vehicle. For purposes of this section, place of secure safekeeping means a place off the traveled portion of the highway that can accommodate the parking of such vehicles in order for the vehicles to be (1) repaired or (2) dismantled and operated in compliance with subdivision (1)(b) of section 60-6,290 and subsections (2) and (3) of section 60-6,294.

Sec. 5. Section 60-6,298, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,298. (1)(a) The Department of Roads or the Nebraska State Patrol, with respect to highways under its jurisdiction including the National System of Interstate and Defense Highways, and local authorities, with respect to highways under their jurisdiction, may in their discretion upon application and good cause being shown therefor issue a special, continuing, or continuous permit in writing authorizing the applicant or his or her designee:

(i) To operate or move a vehicle, a combination of vehicles, or objects of a size or weight of vehicle or load exceeding the maximum specified by law when such permit is necessary:

(A) To further the national defense or the general welfare;

(B) To permit movement of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment; or

(C) Because of an emergency, an unusual circumstance, or a very special situation;

(ii) To operate vehicles, for a distance up to one hundred twenty miles, loaded up to fifteen percent greater than the maximum weight specified by law, up to ten percent greater than the maximum length specified by law, except that for a truck-tractor semitrailer trailer combination utilized to transport sugar beets which may be up to twenty-five percent greater than the maximum length specified by law, or both, when carrying grain or other seasonally harvested products from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile to market or factory when failure to move such grain or products in abundant quantities would cause an economic loss to the person or persons whose grain or products are being transported or when failure to move such grain or products in as large quantities as possible would not be in the best interests of the national defense or general welfare. The distance limitation may be waived for vehicles when carrying dry beans from the field where harvested to storage or market when dry beans are not normally stored, purchased, or used within the permittee's local area and must be transported more than one hundred twenty miles to an available marketing or storage destination. No permit shall authorize a weight greater than twenty thousand pounds on any single axle;

(iii) To transport an implement of husbandry which does not exceed twelve and one-half feet in width during daylight hours, except that the permit shall not allow transport on holidays; ~~or~~

(iv) To operate one or more recreational vehicles, as defined in section 71-4603, exceeding the maximum width specified by law if movement of the recreational vehicles is prior to retail sale and the recreational vehicles comply with subdivision (2)(k) of section 60-6,288; ~~or - A copy of the permit shall be carried with the recreational vehicle or vehicles.~~

(v) To operate an emergency vehicle for purposes of sale, demonstration, exhibit, or delivery, if the applicant or his or her designee is a manufacturer or sales agent of the emergency vehicle. No permit shall be issued for an emergency vehicle which weighs over sixty thousand pounds on a tandem axle.

(b) No permit shall be issued under subdivision (a)(i) of this subsection for a vehicle carrying a load unless such vehicle is loaded with an object which exceeds the size or weight limitations, which cannot be dismantled or reduced in size or weight without great difficulty, and which of necessity must be moved over the highways to reach its intended destination. No permit shall be required for the temporary movement on highways other than dustless-surfaced state highways and for necessary access to points on such highways during daylight hours of cost-saving equipment to be used in highway or other public construction or in agricultural land treatment when such temporary movement is necessary and for a reasonable distance.

(2) The application for any such permit shall specifically describe the vehicle, the load to be operated or moved, whenever possible the particular highways for which permit to operate is requested, and whether such permit is requested for a single trip or for continuous or continuing operation.

(3) The department or local authority is authorized to issue or withhold such permit at its discretion or, if such permit is issued, to limit the number of days during which the permit is valid, to limit the number of

trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or to issue a continuous or continuing permit for use on all highways, including the National System of Interstate and Defense Highways. The permits are subject to reasonable conditions as to periodic renewal of such permit and as to operation or movement of such vehicles. The department or local authority may otherwise limit or prescribe conditions of operation of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces, or structures or undue danger to the public safety. The department or local authority may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(4) Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any peace officer, carrier enforcement officer, or authorized agent of any authority granting such permit. Each such permit shall state the maximum weight permissible on a single axle or combination of axles and the total gross weight allowed. No person shall violate any of the terms or conditions of such special permit. In case of any violation, the permit shall be deemed automatically revoked and the penalty of the original limitations shall be applied unless:

(a) The violation consists solely of exceeding the size or weight specified by the permit, in which case only the penalty of the original size or weight limitation exceeded shall be applied; or

(b) The total gross load is within the maximum authorized by the permit, no axle is more than ten percent in excess of the maximum load for such axle or group of axles authorized by the permit, and such load can be shifted to meet the weight limitations of wheel and axle loads authorized by such permit. Such shift may be made without penalty if it is made at the state or commercial scale designated in the permit. The vehicle may travel from its point of origin to such designated scale without penalty, and a scale ticket from such scale, showing the vehicle to be properly loaded and within the gross and axle weights authorized by the permit, shall be reasonable evidence of compliance with the terms of the permit.

(5) The department or local authority issuing a permit as provided in this section may adopt and promulgate rules and regulations with respect to the issuance of permits provided for in this section.

(6) The department shall make available applications for permits authorized pursuant to subdivisions (1)(a)(ii) and (1)(a)(iii) of this section in the office of each county treasurer. The department may make available applications for all other permits authorized by this section to the office of the county treasurer and may make available applications for all permits authorized by this section to any other location chosen by the department.

(7) The department or local authority issuing a permit may require a permit fee of not to exceed twenty-five dollars, except that:

(a) The fee for a continuous or continuing permit may not exceed twenty-five dollars for a ninety-day period, fifty dollars for a one-hundred-eighty-day period, or one hundred dollars for a one-year period; and

(b) The fee for permits issued pursuant to subdivision (1)(a)(ii) of this section shall be twenty-five dollars for a thirty-day permit and fifty dollars for a sixty-day permit. Permits issued pursuant to such subdivision shall be valid for thirty days or sixty days and shall be renewable for a total number of days not to exceed one hundred and twenty days per year.

A vehicle or combination of vehicles for which an application for a permit is requested pursuant to this section shall be registered under section 60-331 or 60-356 for the maximum gross vehicle weight that is permitted pursuant to section 60-6,294 before a permit shall be issued.

Sec. 6. Section 60-2404, Reissue Revised Statutes of Nebraska, is amended to read:

60-2404. A motor vehicle towed away under sections 60-2401 to 60-2411, which is not claimed by the owner within ~~one hundred eighty ninety~~ days after towing, is subject to ~~liens~~ lien and disposition under Chapter 52, article 6, by the person who towed the vehicle. ~~under Chapter 52, article 6.~~

Sec. 7. Section 60-2410, Reissue Revised Statutes of Nebraska, is amended to read:

60-2410. (1) The owner or other person lawfully entitled to the possession of any vehicle towed or stored shall be charged with the reasonable cost of towing and storage fees. Any such towing or storage fee shall be a lien upon the vehicle under Chapter 52, article 6, and, except as provided in subsection (3) of this section, shall be prior to all other claims. Any person towing or storing a vehicle ~~shall be entitled to may~~ retain possession of such vehicle until such charges are paid or, after ninety days, may dispose

of such vehicle to satisfy the lien. The lien provided for in this section shall not apply to the contents of any vehicle.

(2) The person towing the motor vehicle shall, within thirty days after towing, notify any lienholder appearing on the certificate of title of the motor vehicle and the owner of the motor vehicle of the towing of the motor vehicle. The notice shall be sent by certified mail, return receipt requested, to the last-known address of the lienholder and owner of the motor vehicle. The notice shall contain:

(a) The make, model, color, year, and vehicle identification number of the motor vehicle;

(b) The name, address, and telephone number of the person who towed the motor vehicle;

(c) The date of towing;

(d) The daily storage fee and the storage fee accrued as of the date of the notification; and

(e) A statement that the motor vehicle is subject to lien and disposition by sale or other manner ninety days after the date of towing under Chapter 52, article 6.

(3) Failure to provide notice as prescribed in subsection (2) of this section shall result in the lien of the person who towed the motor vehicle being subordinate to the lien of the lienholder appearing on the certificate of title and render void any disposition of the motor vehicle by the person who towed the motor vehicle.

Sec. 8. Section 9-317, Uniform Commercial Code, is amended to read: 9-317. Interests that take priority over or take free of security interest or agricultural lien.

(a) A security interest or agricultural lien is subordinate to the rights of:

(1) a person entitled to priority under section 9-322; and

(2) except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:

(A) the security interest or agricultural lien is perfected; or

(B) one of the conditions specified in section 9-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in sections 9-320 and 9-321, if a person files a financing statement with respect to a purchase-money security interest before or within ~~twenty~~ thirty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

Sec. 9. Section 9-324, Uniform Commercial Code, is amended to read: 9-324. Priority of purchase-money security interests.

(a) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in section 9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within ~~twenty~~ thirty days thereafter.

(b) Subject to subsection (c) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in section 9-330, and, except as otherwise provided in section 9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or

before the delivery of the inventory to a buyer, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Subdivisions (b) (2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under section 9-312(f), before the beginning of the twenty-day period thereunder.

(d) Subject to subsection (e) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in section 9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the livestock;

(2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) Subdivisions (d) (2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under section 9-312(f), before the beginning of the twenty-day period thereunder.

(f) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in section 9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f):

(1) a security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) in all other cases, section 9-322(a) applies to the qualifying security interests.

Sec. 10. Sections 8, 9, and 11 of this act become operative on October 17, 2005. The other sections of this act become operative on their effective date.

Sec. 11. Original sections 9-317 and 9-324, Uniform Commercial Code, are repealed.

Sec. 12. Original sections 52-604, 60-6,114, 60-6,294, 60-6,297, 60-6,298, 60-2404, and 60-2410, Reissue Revised Statutes of Nebraska, are repealed.